HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.10746 of 2006

Date: 20-03-2007.

Between :

M/s.Velivennu Primary Agricultural Co.Op. Credit Society, Velivennu, West Godavari District, rep. by its President.

.....Petitioner

And

The Deputy Commissioner of Commercial Taxes, Eluru, West Godavari District & others.

.....Respondents.

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.10746 of 2006

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

The petitioner-Society was dealer of Sodium Hydrosulphite. The said commodity was taxed by the respondents under Item 9 of Schedule-VI of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act') at the rate of 10% upto 31.12.1999. The rate of tax was reduced to 8% with effect from 01.01.2000 by G.O.Ms.No.910, dated 31.12.1999. For the assessment year 1999-2000, the 2nd respondent has passed a final assessment order dated 12.04.2000 levying tax at the rate of 10% upto 31.12.1999 and at the rate of 8% from 01.01.2000 to 31.03.2000. The petitioner paid the tax. Similarly, for the assessment year 2000-2001, tax was levied at the rate of 8% on the first sale of Sodium Hydrosulphite. This practice continued till 2002-2003 when 1st respondent, by his order dated 13.10.2004,

revised the assessment order for the assessment year 1999-2000 coming to the conclusion that the assessing authority had wrongly classified Sodium Hydrosulphite to fall under Item 9 of Schedule-VI and ordered levy of tax at the rate of 15% under Entry 148 of Schedule-I. The 1st respondent classified Sodium Hydrosulphite as general good falling under Schedule-VII and levied tax at the rate of 10% for the period from 01.04.1999 to 31.12.1999 and at the rate of 12% from 01.01.2000 to 31.03.2000. Similarly for the assessment year 2000-2001 also, the 2nd respondent has passed an order dated 15.10.2004 revising the orders of the 1st respondent dated 17.05.2002 and levied tax on Sodium Hydrosulphite at the rate of 12% treating it as general goods. Following the same order for other assessment years, similar orders were passed, but the Government of Andhra Pradesh, vide G.O.Ms.No.910, Revenue, dated 31.12.1999, reduced the tax on Sodium Hydrosulphite under Item 148 of Schedule-I to 8% with effect from 01.01.2000.

The main contention of the petitioner is that since a G.O. has been passed being G.O.Ms.No.910 whereby Sodium Hydrosulphite would attract a tax at the rate of 8% with effect from 01.01.2000, therefore, such benefits could not be denied to him even if the assessment had become final. The learned Government Pleader, on the other

hand, submits that since the orders in revision had become final, the only remedy available to the petitioner was filing of appeals. We feel that since the Government itself has, by G.O.Ms.No.910, put the Sodium Hydrosulphite as a separate entry under Item 148 with effect from 01.01.2000, the respondents should have considered the contentions of the petitioner. The petitioner has already filed a representation before the 1st and 2nd respondents on 04.08.2005. We feel that the interests of justice would be met if the 1st and 2nd respondents are directed to dispose of the representation of the petitioner.

Accordingly, we allow the writ petition and direct 1st and 2nd respondents to consider the representation of the petitioner and pass appropriate orders within a period of six weeks from today in the light of G.O.Ms.No.910, dated 31.12.1999 and other relevant Government Orders. Till disposal of the representation of the petitioner, coercive steps may not be taken for recovery of tax.

BILAL NAZKI, J

20th March 2007.

NOOTY RAMAMOHANA
RAO, J

ajr